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The
ÅLAND QUESTION
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RIGHTS *of* FINLAND

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The
ÅLAND QUESTION
and the
RIGHTS *of* FINLAND

A MEMORANDUM BY
A NUMBER OF FINNISH JURISTS
AND HISTORIANS

HELSINGFORS 1920

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THE ÅLAND QUESTION AND THE RIGHTS OF FINLAND.

The discussion of the Åland question in the Council of the League of Nations has recently taken a new turn which leads the undersigned to address to representatives of contemporary civilization a statement upon this subject.

At the end of the year 1917 there arose in Åland a separatist movement, the object of which was to sever that province from Finland and unite it with Sweden. The latter country, which from the outset had given this movement considerable encouragement, submitted the question to the Peace Conference. The Conference having declined to deal with it, it was by the British Government referred to the League of Nations. The Council of the League subsequently appointed an International Commission of three jurists to make a report. This report was presented on September 5th 1920. It is to the effect that the dispute between Sweden and Finland »does not refer to a question which is left by international law to the domestic jurisdiction of Finland», and that »the Council of the League of Nations, therefore, is competent, under paragraph 4 of article 15, to make any recommendations which it deems just and proper in the case.»¹ The Council has adopted the report and has appointed a further commission of three to propose a solution of the question.

1929
E. J. R.

¹ The quotations from the Report of the Jurist Commission are taken from the official English version.

The Commission of Jurists was, however, given an incorrect version of the actual facts of the case, and its Report, consequently, contains a complete misconception of the rights of Finland over Åland. The Finnish representatives had not been in a position to answer the statements submitted by the representatives of Sweden, while on the other hand the Swedish delegates had been given an opportunity of replying to Mr. Enckell's memorandum of July 23rd.

This Report, however, does not decide the main issue, namely the future status of Åland. The Council of the League can independently recommend to the parties concerned the settlement which it finds to be just and equitable. But it would clearly be disastrous to Finland if the Council were to propose a solution involving a violation of her rights. For this reason we have considered it necessary to make a statement of the actual facts.

A brief description of Åland and its population may be of assistance in obtaining a clear insight into this problem.

It has been asserted in statements of Swedish origin that Åland is a group of islands belonging, from a geographical point of view, about equally to both countries, or even rather more to Sweden than to Finland. This is not the case. On the contrary, the Åland Islands form part of an archipelago (Swedish »skärgård»), separated in the west from Sweden by a deep and open sea, but stretching eastwards in an unbroken series right up to the mainland of Finland. This archipelago consists, not counting small rocks, of about 5,000 islands, of which rather more than half (2,880 islands) belong to the »Åbo Skärgård», and the remainder to the »Åland Skärgård». It is, therefore, quite incontestable that from a geographical point of view the Islands belong to Finland.

The inhabitants of Åland are almost wholly Swedish-speaking (95.6 %). But it should not be forgotten that there are in Finland 385,000 inhabitants of Swedish origin and language, of whom the

Ålanders, numbering 25,000, are scarcely one fifteenth. This Swedish-speaking population has been settled in the country from the earliest times. It is not the case, as asserted in a document presented to the Peace Conference by one of the Swedish delegates, that the boundary between the Åland and the Åbo archipelagoes is also the boundary between the Swedish-speaking and the Finnish-speaking populations. Only one of the four communes which immediately adjoin the Åland archipelago has a Finnish-speaking population. The other three are Swedish in almost the same proportion as Åland itself. The greater part of the Swedish population of Finland inhabits districts which are practically continuous along the west, southwest and southern coasts of Finland. The Swedish-speaking inhabitants of the Åbo archipelago alone, which adjoins Åland, are considerably more numerous than the whole population of Åland itself. Although the dialect of the Ålanders has a resemblance to that spoken in Sweden, especially on the Swedish coast opposite Åland (Roslagen), »nevertheless», says a wellknown philologist »the Åland dialect is unquestionably to be reckoned amongst the Swedish dialects of Finland. . . » »In common with the other Swedish dialects of Finland it seems to contain words in its vocabulary which are not found in the language of Sweden.»¹ This shows that of the two great branches into which the Swedish nationality is divided, the Åland population belongs to the East Swedish branch, which is settled in Finland.

It may be added that during the last century the population of Åland has been almost exclusively in social and intellectual relationship with the rest of Finland and scarcely ever with Sweden. In Åland, all intellectual institutions, such as the educational system, young people's associations, etc., have their origin on the

¹ Dr. H. Bergroth, in the encyclopaedia *Nordisk Familjebok*, published in Stockholm, vol. 18, art. Åland.

mainland of Finland, and are closely connected with corresponding institutions in that country. Again, in the economic sphere, it is true that the west of Åland trades both with Sweden and with Finland, but the east trades almost exclusively with Finland, and to some extent also with Reval.

Moreover, ever since the expression »Finland» became crystallized as meaning the provinces of Sweden east of the Gulf of Bothnia, Åland has been counted as part of Finland and not of Sweden proper. During the period of Swedish rule Finland had no separate political status, but owing to its remote situation and because the greater part of its population was of a different race and spoke a different tongue, it was in fact regarded as a separate entity. The assertion made by some Swedes that previous to 1809 Åland was considered to be a part of Sweden proper, and not of Finland, is incorrect. In regard to her civil administration, Åland in earlier times generally formed a province of her own such as other provinces in Finland, but was also sometimes subordinated to the governor of the province of Åbo on the Finnish mainland, and since 1634 it has been continuously united to that province. Except in one instance, which will be given later (p. 16), Åland has never been administered in conjunction with provinces in Sweden. In judicial and ecclesiastical affairs, again, Åland has at least since the fourteenth century been subject to authorities in Finland, although of course the supreme government in Stockholm wielded authority over the whole realm. From the sixteenth to the eighteenth century so called stadtholders or governors general were frequently entrusted with the supreme administration of Finland or greater parts thereof. Ever since 1631 Åland on all such occasions was included in their sphere of government. Previous to that year this was also the usual practice.

The International Commission says quite correctly that »in the absence of express provisions in international treaties, the right of

disposing of national territory is essentially an attribute of the sovereignty of every State. Positive International Law does not recognize the right of national groups, as such, to separate themselves from the State of which they form part by the simple expression of a wish, no more than it recognizes the right of other States to claim such a separation. Generally speaking, the grant or refusal of the right to a portion of its population of determining its own political fate by plebiscite or by some other method, is, exclusively, an attribute of the sovereignty of every State which is definitively constituted. A dispute between two States concerning such a question, under normal conditions therefore, bears upon a question which International Law leaves entirely to the domestic jurisdiction of one of the States concerned. . . »

What has been said, however, the Commission further observes, »generally speaking, only applies to a nation which is definitively constituted as a Sovereign State«, while on the other hand »the formation, transformation and dismemberment of States as a result of revolutions and wars, create situations of fact which, to a large extent, cannot be met by the application of the normal rules of positive law«. In such cases »the situation is obscure and uncertain from a legal point of view«. The Report further states that this situation »tends to lead to readjustments between the members of the international community and to alterations in their territorial and legal status; consequently this transition interests the community of States very deeply both from political and legal standpoints«.

According to this theory the answer to the question submitted to the Commission depends mainly on whether, at the time when the Åland population put forward their demand for separation from Finland and union with Sweden, Finland was a definitely constituted sovereign State, of which Åland was a part, and thus, whether the dispute between Sweden and Finland concerns a definitely estab-

lished situation. This question is by the Commission answered in the negative, but on grounds which, as already stated, are not in accord with actual historical facts.

The Commission leaves undecided the question whether the events of the Borgå Diet of 1809 and the subsequent Peace of Fredrikshamn made Finland a State in the proper sense of the term. It should, however, be noted that the Tsar Alexander I. summoned that Diet in accordance with the laws in force for the parliaments of Sweden, received homage from it as Grand Duke of Finland, and not only gave a «promise» to maintain the religion and fundamental laws of the country, but also handed to the Estates a document in which he *confirmed* the former Swedish fundamental laws as valid for Finland. But these fundamental laws formed the constitution of a State, and not of a province. Finland, which previously had no separate constitution, but had shared that of Sweden, now received a constitution of her own. That constitution could not be altered without the consent of the Estates of Finland in Diet assembled, and did not allow of any legislative, judicial or administrative power other than its own. Finland became a constitutional State. It is true that it was not a sovereign State, because externally, in foreign affairs, Russia acted as a single unit, and had also the right to use Finnish territory for military purposes, but Finland was autonomous. Thus Alexander I., speaking of Finland, used the expression «Etat» and declared that the people of Finland were «internally free», «under the dominion of their laws»¹ and «placed henceforth in the ranks of the nations»². This is also the view, as the Commission admits, which jurists, with few exceptions, have adopted in dealing with the question. We may add that it has also been expressed by several Russian legal experts.

¹ «libre dans l'intérieur, sous l'empire de ses lois.»

² «placée désormais au rang des nations.»

The Commission declares, however, that the State of Finland »since 1899 was in fact treated by the Russian Government as an ordinary province».

That would only be true on the hypothesis that the altered status which the Russian Government evidently wished to give to Finland, had actually been created, and accepted by the Finnish people. A usurpation which either does not succeed, or which, though partially successful, fails to obtain recognition and is soon revoked, cannot be regarded as a factor which brings about any alteration in the legal position. That was the state of affairs in Finland. The inhabitants of the country met the attempt at usurpation with a passive, unarmed, but energetic and loyal resistance, firmly refusing to obey any illegal ordinances. In 1899 the Tsar issued a manifesto decreeing that laws which he considered affecting »imperial interests» should be made by the legislative organs of Russia, and that the Finnish Diet should only have the right to express an opinion. The Estates as well as the whole people made immediate protests against the manifesto, which was only on one occasion carried into effect, namely to impose upon Finland a Russian Conscription law. That law could not even be put into force, for most of those who were called up for military service refused to obey the call. It is true that other encroachments followed. Law-abiding officials and other citizens who opposed the illegal measures were exiled or deported, and in a few cases Russian subjects were appointed to some of the higher offices. Irregularities were thus introduced in some spheres of public life, but nevertheless the lawful authorities of the country continued on the whole to act according to its laws, and a manifesto of November 4th 1905 put an end to the irregularities and restored legal order in all spheres. It may be added that this manifesto, by its very title »concerning measures for the restoration of legal order», implies an admission that the régime which it revoked was illegal.

Conditions were substantially the same from the year 1908 onwards, when the Russian Government adopted a similar destructive policy towards Finland, this time in conjunction with the representative assembly elected under the Russian constitution of 1906. In 1910, despite the express protests of the Diet, the Russian legislature, in violation of the Finnish constitution, passed a law which ordained that laws for Finland on certain subjects should be enacted by the legislature of Russia, to the membership of which a few representatives of Finland elected by the Diet were to be admitted for the business in question. The Diet refused to carry out such an election, declaring that the Russian Act could not have the force of law in Finland. Neither did the few other laws passed for Finland under the Russian Act of 1910 obtain either recognition or observance in this country. Immediately after the Russian revolution of March 1917, the former legal conditions were restored by the Russian provisional Government, which then exercised the supreme power in Russia and, consequently, also in Finland.

Finland was thus by no means changed into a Russian province. After the abdication of the monarch, whom this country had in common with Russia, Finland was in 1917 the same autonomous State which it had been ever since 1809. In November of 1917, the Diet itself, owing to the anarchy which had broken out in Russia, assumed the supreme power. On December 4th the Government set up by the Diet declared the independence of Finland, and two days later the Diet ratified that declaration. These actions merely meant that the provisions of the constitution which referred to the union with Russia had been annulled, and not that the constitution had been altered in any other respect. It is noteworthy that the constitution confirmed to Finland in 1809 had previously been one of a sovereign State (namely Sweden). During the period of union with Russia it had suffered limitation to the extent that Finland, though internally free, was not a sovereign State, but this limi-

tation no longer exists. In other respects the same constitution was still in force, but of course with the amendments which it had received by subsequent acts of Finnish legislation.

The Commission says that these considerations and the subsequent recognition of Finnish independence by a number of States, do not necessarily mean »that Finland, from this time onward became a sovereign State«. It refers to the conditions prevailing during the world war, and to the *new* political organizations which then grew up and received recognition, although that recognition could not be accorded the same significance which it would have received in normal times. It further recalls the fact that the territory of such States, and also to some extent their internal conditions, were to be more exactly determined by »the great diplomatic reconstruction of Europe which would follow the conclusion of peace«.

But these conditions are not applicable to the present case. Finland is not a new State which grew up during the war. It has existed for more than a century as a State which, though not sovereign, yet had complete legislative, executive and judicial autonomy. Its territory and frontiers were also from early times clearly defined, and its internal organization was determined in every detail by its constitution. The fact that Finland became independent does not, therefore, imply the genesis of a new State, but simply that the bond which had united that country to Russia had been broken. With regard to the nature of the acts whereby Sweden and Great Britain recognized the independence of Finland, to which the Commission refers, Sweden gave her recognition without any reservation at all. That circumstance is not affected by the fact that Sweden »has always shown by her attitude that she was interested in the Åland Islands question, and she has always acted as if her recognition had been given subject to reservations«. For it is well known that such silent reservations have no significance. When Sweden re-

cognized Finland as an independent State, that recognition implied also a recognition of Finnish sovereignty over Åland. The recognition by Great Britain, again, was not accorded until May 1919, and it was certainly accompanied by a note «expressing the hope that Finland would not refuse, under any circumstances, to accept the decisions of the Peace Conference with reference to her frontiers». Finland notified her agreement with this condition, on the understanding that no encroachment would be made on the ancient, historical frontiers of the country. England, without making any further observations, sent a diplomatic representative to Finland, and herself received the envoy of Finland as the representative of a sovereign State. The Finnish interpretation of the British note was afterwards expressly recognized as correct by a communication from the British Foreign Office dated January 21st 1920. In actual fact, the reservation did not refer to Åland (this is confirmed by the refusal of the Peace Conference to consider the Åland question), but meant that Finland should not try to enlarge her frontiers by forcible means. The Commission further states that »in France, the President of the Council publicly declared from the Tribune of the Chamber of Deputies, on the 29th September 1918 [should be Sep. 25 1919], that he considered that the Åland Islands question was within the scope of the Peace Conference». The purport of this declaration was rather obscure, but it has in any case lost all significance owing to the fact that the Peace Conference regarded the Åland question as outside the problems which it had to solve. It therefore in no way follows that when Finland broke the bond which united her to Russia and declared herself independent, she did not fulfil the conditions of a sovereign State.

Finally, in support of its view of the genesis of the State sovereignty of Finland, the Commission makes a reference to »the very abnormal character of her internal situation». »In the midst of revolution and anarchy», when civil war was rife, when the Diet, the legality of which had been disputed, had been dispersed, when the Government had

been chased from the capital and forcibly prevented from carrying on its duties, and when the combatants were receiving the support of foreign troops, »the conditions required for the formation of a sovereign State did not exist». It was not until May 1918 that anything like normal conditions returned. These facts led the Commission to hold that the genesis of an independent State of Finland was in several aspects »a new political phenomenon», not »a mere continuation of a previously existing political entity».

In this connection it must first be remembered that although there had previously been some local disturbances, the insurrection did not break out until January 27th 1918, whereas Finland had made her declaration of independence in the beginning of December 1917, and a number of powers had recognized her independence at the beginning of January 1918. But an insurrection or revolution, even when successful, has never been regarded as interrupting the existence of a State, still less when, as in this case, it has been put down by the power of that State. In times of war and civil disturbances it has often happened that a government has been forced to remove to some place other than the capital of the country, but in a case of this kind no decisive significance has ever been attached to such facts. During the insurrection the Finnish Government sat at Vasa, and although its authority was at first only recognized in the north, it was extended after a few weeks over the greater part of the country. It is not uncommon in war that a larger or smaller portion of the territory of a State is withdrawn from the authority of its government, but that fact in no way nullifies the existence of the State. If this were so, what would have happened to Belgium, the greater part of whose territory was occupied by hostile troops during the world war? With reference to the legality of the Diet, it may be noted that the Russian provisional Government, when decreeing a general election, temporarily held supreme power in Finland, conformably to the Finnish constitution. It is true that one party regar-

ded this step as an act of undue interference. The prerogative of dissolution, however, legally belonged to the head of the State and was recognized by the Finnish Government, and the party which protested took part both in the elections and in the proceedings of the Diet, so that its protest lost all force. Finally, the question cannot be affected by the fact that in the country's sore distress the Government asked for and received help from a foreign power, especially as, when the foreign auxiliaries actually arrived, the government troops had already reconquered the greater part of the country.

It is true that for a time social order in Finland was upset. But the derangement was not so great that the Finnish State can be said to have collapsed, and a new State to have gradually grown up on its ruins. The actual facts do not allow of such a conclusion. On the contrary, they show that the former Finnish State had a continuous existence both during the period of union with Russia and also afterwards, when it had become independent. The former power of the Finnish State still survived, under laws that had not been repealed. Although an insurrection had broken out and the rebels had for a time held sway in part of the country, this fact neither implied the death of the former State-power nor the rise of a new State.

What has been said refutes the grounds for the Jurist Commission's statement that although Åland was undoubtedly part of Finland during the period of Russian rule, it cannot be regarded as definitively incorporated in the Finnish State which was subsequently formed. As the Finnish State did neither cease to exist nor give place to a new State, so Åland did not cease to form part of Finland.

The Commission then gives an historical survey of conditions in Åland, which is similarly based on a defective knowledge of the true facts. The Commission says first that the union of the Åland Isles

to the Russian Empire was not carried out in the same way as that of continental Finland. While the inhabitants of the latter had accepted the Tsar as their sovereign ever since his declaration of March 28th 1808, and the Diet had taken the oath of fidelity to him at Borgå in March 1809, the Alanders had refused to be separated from Sweden and had succeeded in driving the Russian troops from the islands. They only resigned themselves to the change of sovereign and nationality after the territory had been ceded by their king in the Treaty of September 17th 1809.

But that was not the case. The declaration of March 28th 1808 applied to the whole of Finland, including those parts of the country which the Russians had not yet conquered, among them not only Åland but also the whole of northern Finland. It was proclaimed as early as the following April in the churches of Åland, which the Russians had then occupied. The famous Åland rising against the few Russian troops who occupied the islands did not occur in the spring of 1809 but in May 1808. Similar peasant risings took place at the same time and even later at various places on the Finnish mainland, especially in the provinces of Ostrobothnia, Savolaks and Carrelia, sooner or later to be by the Russian troops drowned in blood. By the spring of 1809 opinion in Åland had changed. The defence of the rest of Finland had been left almost entirely to Finnish troops, and the country had fallen into the hands of the Russians before the end of 1808. At the beginning of 1809 Åland was still held by Swedish forces commanded by General von Döbeln. When the Russian troops approached, that valiant warrior exhorted the population of the Islands to take up arms and assist the Swedish troops in the defence of their homes, but his appeal fell mainly on deaf ears, and was obeyed unwillingly or not at all. On March 17th, i. e. before the opening of the Borgå Diet, the Swedish troops left Åland under pressure from an overwhelming Russian army. From that day Åland was, like the rest of Finland, in the hands of Russia, a condition of

affairs in which the Ålanders acquiesced just as did the other inhabitants of Finland. During the period when the Finnish mainland had been conquered by Russia, Åland not yet having been captured, the civil, religious and judicial administration of the Islands had been provisionally subordinated to authorities in Sweden, but official documents show that, after the occupation of Åland by the Russian troops, it was Finnish authorities which had charge of such administration, and they also administered to the Ålanders the oath of allegiance to Alexander I., long before the peace was signed.

It is true that the Estates of Finland did homage to Alexander I. as Grand Duke of Finland at the Diet of Borgå. The summons to the Diet had, however, been received with hesitation in a number of places, where also the elections had been reluctantly held. But as Sweden evidently regarded Finland as definitely lost and did not even make any attempt to reconquer the country, the Finnish people were forced to take their fate into their own hands. Owing to the conditions prevailing in Åland, it had not been possible to hold an election before the meeting of the Diet, but an election to the Clergy Estate was held later, and a representative of that Estate attended the Diet with credentials duly attested by the cathedral chapter of Åbo. Since, however, Åland had during the Swedish period always been counted as a part of Finland and had been administered conjointly with that country or parts of it, and since it now also had a Finnish administration, the Diet was regarded as representing also that province. It is clear that this was so from the fact that the discussions in the Diet dealt, among other things, with Åland affairs, which would not have been possible if Åland had not been regarded as a part of Finland. Moreover, when the Tsar, with the consent of the Diet, appointed a Council of Government for the general administration of Finland (on August 18th 1809, and thus before conclusion of peace) that measure applied also to Åland, without the fact needing special mention.

These arguments are not affected by the efforts of the Swedish representatives at the peace negotiations to retain Åland as long as possible for Sweden. Neither is the question affected by the fact that Åland was abandoned by the Swedish troops and occupied by the Russians at a later date than the occupation of the rest of Finland. It was neither the acts performed at the Borgå Diet nor the peace concluded at Fredrikshamn which made Åland a part of Finland. It had already been so for centuries. Neither was Åland united to Russia in any other manner than the remaining provinces of Finland, but in the same manner and at the same time. In the Peace Treaty the king of Sweden renounced in favour of Russia his rights over Finland, including Åland, for all future time, and the rights which Russia thus acquired subsequently passed to Finland, and included Åland as well as other Finnish provinces.

The Commission recognizes that during the Russian period Åland was »undoubtedly» part of Finland, but it questions whether the Islands can therefore be regarded as having been definitely incorporated *de jure* in the State of Finland which afterwards arose. That question has already been answered by the argument that independent Finland is not a new political organism, but the direct continuation of a previously existing Finnish State, the only modification being that the power of the Finnish State was formerly limited from above (by the sovereignty of Russia) and that it is now free from that limitation. As, however, the Commission gives a negative answer to the question, it becomes necessary to deal with the grounds which it adduces for this opinion.

The Commission states that »if one part of a State separates itself from that State, the separation is necessarily limited in its effect to the population of the territory which has taken part in the act of separation». It further declares that the population of Åland can in a certain sense be regarded as having »a kind of acquired

right», which would be violated if Finland demanded that its future should be the same as hers, simply because of the one fact that Åland formerly formed part of the Finnish political organization in the Russian Empire. The facts which the Report regards as conferring this right upon the Åland population are connected partly with the political expressions of the wishes of the inhabitants, and partly with the military events which took place in the Islands.

The meeting held at Finström on August 20th 1917 is generally stated to be the starting point of the Åland separatist movement. This meeting resolved to express to the king and parliament of Sweden the earnest desire of the Åland population for reunion with Sweden. It is, however, to be noted that only nine communes were represented at the meeting, whereas no delegates had been elected from the six other Åland communes; that the delegates who were elected were not appointed to vote for union with Sweden and had no particular authority to do so; and that the resolution, which was not communicated to the Swedish Government until November 27th, was not even brought to the knowledge of the people of Åland after the meeting. The population first heard of it long afterwards from Stockholm, where the newspapers in general could tell far more about the Åland separatist movement than was known in Åland itself. For these reasons it is impossible to regard that meeting as having any significance.

An Ålander with a thorough knowledge of the circumstances bearing on this question, has written an account of events and opinions in Åland in 1917 and 1918. According to him, the idea of reunion with Sweden did not become widespread in Åland until towards the end of December 1917. The same writer says that the reason for the spread of this idea was not, as has since been asserted, to be found in the fact that »Åland belonged to Sweden». National consciousness did not awake any earlier in Åland than among the other Swedes of Finland. According to the same au-

thority, the real reason lay in the sufferings of the population at the hands of the licentious, demoralised and undisciplined Russian troops. During the last days of the year 1917 more than 7,000 signatures were collected in Åland for an address to be presented to the king and people of Sweden concerning the reunion of Åland with that country. It is not quite accurate to call this collection of names a plebiscite, for there was no question of voting on two alternatives, as the votes were collected by persons who only represented one point of view. This Ålander says that the address was »planned and organized» by a small number of persons, and that the collection of names owes its success partly to the method in which it was carried out, and partly to the political conditions prevailing at the time, the violent régime of the Russians and the dark and menacing clouds veiling the future of Finland. The lists of signatures took the form of an authorization to »convey to the king and people of Sweden the desire of the Åland population for the incorporation of the Åland Islands with the realm of Sweden». The wording of the address only became known to the signatories nearly three months later, on March 20th 1918, when it was published in the »Åland» newspaper. On February 2nd a deputation presented the address to the king of Sweden, who received it sympathetically, and in his reply expressed the hope that the Swedish Government would be able to find a means of overcoming, if possible, the difficulties in the way of realizing the Ålanders' desires, *in agreement with a free and independent Finland* — the words which the Ålanders themselves had used. The king had already expressed the same sentiment to the Riksdag, in his Speech from the Throne on January 16th.

With reference to the date of these events, it must be remembered that the Diet made its decision concerning the independence of Finland on December 6th 1917, and Mr. Julius Sundblom, the representative of Åland in the Diet, participated in that decision. The Government of Sweden *recognized the independence of Finland*

without reservation on January 4th 1918, or long before the address was presented to the king. It is still more important to note that neither the address nor the reply of the king of Sweden contain any assertion that Sweden had a *right* to Åland or the Ålanders a right to separate their territory from Finland and unite it to Sweden. The address only expresses a *desire* that Åland might be incorporated with Sweden, and a *hope* that the Swedish Government would find a means of solving the difficulties in the way of fulfilling that desire *in agreement with a free and independent Finland*. Both the address and the king's reply, therefore, involved as clear a recognition as possible of the right of Finland to Åland and of her sovereignty over the Islands.

In consequence, there is no foundation for the statement that the political transformation, which occurred after the Russian revolution, was different in the Åland Islands from that of continental Finland, and that the Ålanders acquired a right to determine their own political allegiance.

Later, in March 1918, under the influence of the Swedish troops landed in Åland, opinion there became more decided. Telegrams to the Finnish Government, the king of Sweden and the German emperor gave new expression to the wishes of the inhabitants. In the summer of 1918 an unofficial representative assembly was formed for Åland under the name of the Åland Landsting. In November of the same year this Landsting, in which the eastern communes of the archipelago were not represented, resolved to send a petition to the Governments of Great Britain, France, the United States and Italy, asking that steps should be taken to allow the Ålanders to determine their future by means of a plebiscite. A vote was taken in June 1919, when 95 % of the Åland population were in favour of union with Sweden. A delegation was sent to the Peace Conference in the same year, representations were made to the Supreme Council on May 9th 1920, on May 31st a deputation from the Åland Landsting was sent to the

king and people of Sweden, and in July a delegation went to the Council of the League of Nations. It is true that the tone of these representations was quite different from that of the first address, and that Sweden had espoused the cause of the Ålanders with the greatest energy. But in the view of the Commission itself, Finland had at least in May 1918 entered on normal conditions as a sovereign State, and up to that date the Ålanders had not taken any step which implied the denial of Finnish sovereignty over their territory as well as over the rest of the country, but had, on the contrary, recognized it in their address. So not even on this interpretation can the Ålanders have acquired any right to separate their country from Finland. Sweden again, as already stated, had recognized the independence of Finland without any reservation, and had subsequently, through her king when he received the address, adopted the same attitude towards Finland as was expressed in the address. Although the Swedish Government afterwards acted as if their recognition had been given with reservations, and although they afterwards claimed that Åland should be acquired for Sweden by means of a plebiscite, that new attitude adopted by the Swedish Government cannot have given Sweden any further rights over the Islands.

The Commission remarks that the Finnish Government took only »very belated» measures to prevent or check the various demonstrations of the Ålanders for a reunion with Sweden. This, however, was not due to any hesitation on the part of the Finnish Government as to Finland's just rights over Åland, but, precisely because these rights were so self-evident, very little significance was attached to the manifestations of the Ålanders. The Government of Finland, while clearly asserting Finland's rights in their diplomatic correspondence, desired to avoid as far as possible any measure that might disturb their good relations with Sweden and give the appearance of brutal coercion. Moreover, the Finnish Government have shown clearly enough, by the action which they have taken under

the laws in force, that they do not intend to surrender Finland's sovereign right to Åland, and their moderation with regard to »coercitive measures» against the Ålanders cannot have caused the forfeiture or diminution of Finland's right to the whole of the territory which is historically hers, and to which her title has never previously been questioned.

The reasons why the Commission attaches so great importance to the above-mentioned manifestations of popular will in Åland are, according to its own statement, partly that »the Åland Islands agitation originated at a time when Finland was undergoing a process of transformation», and partly that the Åland population inhabits a geographically distinct area, is very homogeneous, and is united to the people of Sweden by ties of race, language and traditions, whereas the population of the Finnish mainland is, for the most part, of Finnish origin, and the small Swedish population there is mixed with the Finnish. We have seen that most of these grounds lack the foundation of fact. The State of Finland has had a continuous existence ever since it was founded in the year 1809, the constitution remained the same until the new Form of Government of July 17 1919 was sanctioned, though the dependence upon Russia had ceased. The State had not succumbed to the difficulties it had experienced after the declaration of independence, and during that very period its sovereignty over Åland had been recognized both by the Government of Sweden and by the Åland population.

Again, with regard to the population, it has already been stated that the Ålanders belong by language, descent and social and intellectual relations to that portion of the Swedish nationality which inhabits Finland. Neither are they geographically separated therefrom. The Åland archipelago borders directly upon that extensive portion of the Åbo archipelago which is inhabited by Swedes, and that again, without the interruption of any district inhabited by Finns, adjoins the extensive Swedish district in the province of Ny-

land, which includes not only the archipelago of that province but also a large part of its mainland.

The Commission further adduces the military events in Åland, which must therefore also be touched upon here. It is true that after the declaration of independence Åland was still occupied by Russian troops. But that was also the case with the rest of Finland. It was the continuation of a state of affairs which had existed quite naturally during the time when Finland was united to Russia. Its continuance was due to the fact that the negotiations which were immediately opened concerning the withdrawal of the Russian troops led to no other result than a promise that this would be done. The promise was not kept, and the Finnish Government had no army with which it could drive out those troops. Nevertheless Finnish government troops landed in Åland on February 13th 1918, and were received there with great readiness and goodwill. It is true that this relief corps only consisted of about 500 men, rather more than 100 of whom were Ålanders who joined up after its arrival, and that it was also imperfectly armed, while the Russian forces numbered 1,500—2,000 men, well supplied with arms and other necessaries. But the numerical proportion between the Russian and Red Finnish forces on the one hand and the Finnish government troops on the other was much the same on the mainland, and in many cases even more unfavourable to the government troops, who nevertheless were victorious. One may conclude from the successes which the government troops had already gained over the undisciplined Russian troops that the result in Åland would probably have been the same, especially as the position here was thus far favourable that the Red element among the population was exceedingly small.

Then what is called the Swedish »humanitarian» expedition landed in Åland. We will not here express an opinion as to the object of that expedition or the circumstances connected with it. We will

only touch upon some of the actual consequences to which it led. The Ålander who has already been quoted above, says that the arrival of the expedition and its attitude towards the belligerents caused surprise and dismay, at least in the eastern parts of Åland. »It had been expected there that if only the Swedes once came, they would supply the Whites with arms, and guarantee the liberation of Åland from the Russians». But practically the reverse occurred. The Swedes disarmed the Finnish troops and sent them via Sweden to northern Finland, and took charge of their arms »in order to hand them over to the Finnish Government after the end of the civil war». On the other hand, they allowed the Russians to keep their arms, to depart from Åland freely, and to transport to Åbo their abundant stores of military requisites, to be used there against the Finnish Government and its troops. The Finnish troops submitted to these ignominious and exceedingly unfavourable conditions because they had been misled by incorrect reports of the situation. They had no direct communication either with the Finnish Government or the commander-in-chief, Baron Mannerheim, but the Swedish minister of marine had promised to transmit their telegrams. The important telegram in which Mannerheim ordered the White troops not to leave Åland and promised to send them arms was, however, not forwarded. On the contrary, the troops received from the head of the Swedish expedition the incorrect information that Mannerheim wished them to be transported to Finland (via Sweden). The representative in Stockholm of the Finnish Government, Mr. Gripenberg, had been similarly misled by incorrect information from the Swedish minister of marine. Another circumstance likewise connected with the stay of the Swedish forces in Åland, was that the movement for the union of the Islands with Sweden now became general and took definite shape.

It cannot be denied that the presence of the Swedish forces in Åland produced rather a peculiar situation. It must, however, be

remembered that the Swedish Government has never claimed that its expedition to Åland gave it any right of sovereignty over that province. The object of the expedition was stated to be humanitarian, namely to free Åland from the Russian troops, even though, as shown above, this object was achieved in a peculiar way, at once favourable to the Russians and unfavourable to the State of Finland. It is further to be noted that the Finnish civil authorities continued to function in Åland even during that period. Under these circumstances, the fact that Swedish troops temporarily occupied Åland without the consent of the Finnish Government cannot have annulled the sovereignty of Finland over those Islands.

Later on, as will be remembered, the Islands were occupied by German troops. But these were sent there at the request of the Finnish Government in order to assist that Government in its struggle to preserve law and order, and could therefore not menace, but only strengthen, the sovereignty of Finland over Åland.

The Commission also refers to Russia's claim to a voice in settling the future of Åland, and says that Russia is unquestionably one of the powers most keenly interested in the Åland question. In the opinion of the Commission this also tends to show that the Åland question is something more than an affair of domestic public law. First with regard to Soviet Russia, it is a fact, as the Commission itself says, »that the Soviet Government, by recognizing Finland, has given up all Russian rights over this part of the old Empire». Referring again to the claims to Åland which a recognized Russian Government may make in the future, the Report says that »the abnormal position of a power such as that of Russia, can hardly prevent the other States interested from undertaking the settlement of a question which also affects them and which requires as speedy a settlement as possible». This certainly does not imply that Russia could in the future claim a right to Åland. As, however, it is not incon-

ceivable that such demands might be made, it must here be stated that they would lack legal foundation. The fact that Russia is »incapable in the eyes of the other powers, at present, of entering into valid legal relations» cannot imply that the right of Finland to Åland may be questioned at a later date. — The international stipulations as to the demilitarization of the islands will be referred to below.

The principle of national right of self-determination has been quoted in support of the Ålanders' demand to be allowed to separate their province from Finland and incorporate it with Sweden. It has been said that as the people of Finland in virtue of this principle severed the bond which united them with Russia, the population of Åland ought to be granted the same right to separate from Finland and themselves to determine its future position. The Commission declares that this principle cannot be considered as being »on the same footing as a positive rule of the Law of Nations», but that it ought to be applied to doubtful cases such as those mentioned above, when not a definitively constituted sovereign State, but political organisms in course of transformation or development into independent States, are involved. We have already shown that Finland was not in a state of transformation at the time when the Åland population put forward their demand, but so great importance has been attached to this argument that it becomes necessary further to demonstrate that it can in no case be applicable to Åland and the Åland population.

It is true that when, in the beginning of December 1917, the people of Finland, through their Government and Diet, declared themselves independent, they appealed, amongst other things, to the principle of self-determination. But they only did so in this sense, namely that their people, having for more than a century formed a political entity, a State, had attained such a degree of development and maturity that they as a free people could enter into

the ranks of other free peoples. There are, moreover, other circumstances of great significance. The people of Finland had been united to a people entirely foreign in race, language, religion, culture and traditions. During the two last decades the Russian people, both through their autocrats and afterwards through their parliament, had adopted a policy, aiming at the destruction of the Finnish constitution, which had been solemnly confirmed when Finland was united with Russia, and at the abolition of the legal right guaranteed to the Finnish people to be internally free. The very foundations of Finland's union with Russia had thereby been shattered, and every possibility of peaceful development destroyed. Russia had thereby forfeited her right to retain her sovereignty over Finland, and although the rights of Finland had after the Russian revolution been restored, it had in practice proved impossible to rely any longer on promises which had repeatedly been broken. That there was a tendency to denationalize the people of Finland is obvious. They saw that their whole future was threatened. Finally, through the victory of bolshevism, Russia had fallen into a condition of anarchy and internal disintegration which threatened also to destroy Finland unless she could free herself from the union. It was under these circumstances, and not until after anarchy had broken loose in Russia, that the people of Finland resolved to take their fate into their own hands. It can surely not be denied that that step was necessary and fully justified.

No arguments such as those mentioned above can be adduced in support either of the Åland separatist movement, or of the application of the right of self-determination to this case. The people of Åland form neither a people nor a nation, but only a small fraction of the Swedish nationality in Finland. The Ålanders are not united to a people which is foreign to them. Their nearest neighbours in the Åbo archipelago are Swedes of the same stock as themselves, with the same language and similar interests. Neither is the Fin-

nish State foreign to them, for although the greater part of the population of Finland belongs to a different race and speaks a different language, the edifice of civilization in Finland, and especially of her political institutions, is built on Swedish foundations. Nor yet have the Ålanders at any time been subjected to oppression by the Finnish State. Moreover, quite recently their province has been accorded an extensive measure of self-government by an Act which cannot be altered without the consent of the Ålanders themselves.

There cannot, therefore, be any question of the Åland population possessing the right, under the principle of self-determination, to separate themselves and their territory from the Finnish State. Neither the fear of an intrusion of the Finnish language which has been alleged as a motive for the separatist movement, nor the apprehensions with regard to the future of Finland, which Åland may possibly have, can offer a valid excuse for the population of the Islands to separate themselves from the common fatherland. On the contrary, one cannot help saying that the Ålanders have, by their action, failed in their duty both to the State of Finland, to which they belong, and to their kinsmen in Finland, to whom the loss of Åland would be a severe blow.

It is true that during the first few months after the declaration of independence Finland was in a difficult and dangerous position. The Russian troops quartered in all parts of the country had already thrown over all discipline, and their excesses were a torment to the population and a continual danger to law and order. Still worse, their communist doctrines had poisoned great masses of the working population, who had organized themselves on military lines in what was called the »Red guard», having been supplied with rifles and machine guns by the Russian soldiers. The situation was the more dangerous as Finland had no soldiers of her own since, at the time of governor general Bobrikoff, her army was illegally disbanded. Neverthe-

less this insurrection of the Red masses trying to overthrow the social order of Finland, though strongly supported by the Russian soldiers in the country with their enormous supplies of munitions, and also by the Red Government in Russia, was successfully crushed, not, it is true, without foreign help, but substantially with native resources.

Thus the Finnish State, which had just achieved independence, was the first to defeat Russian bolshevism within its own frontiers, and by this deed it saved its own social order and civilization from anarchy and destruction. But more than this, it thereby rendered a service to all the Scandinavian countries, which, if the insurrection had succeeded, would have seen Russian bolshevism march forward over their territory. Can Finland now be considered to have forfeited her right to a province, which for centuries has formed part of her territory and is of the greatest importance to the whole country, just because of these troubles that have been so triumphantly vanquished? And — strangest of all — though ever since 1917 social disintegration and anarchy have prevailed in Russia, can that country be considered to have retained any shred of right to Åland, while the Finnish State, which in a very short time crushed the anarchy which threatened, is held to have suffered such an interruption of its existence that an attempt to wrest away a portion of its territory is justified?

No, this cannot be. The sense of justice protests against such a view. And the people of Finland are so deeply convinced of their right to retain Åland that they cannot refrain from vindicating their cause.

At the same time, we do not wish to deny that Sweden may have a legitimate interest in the territory of Åland. But that legitimate interest, like the general European interest mentioned in the Commission's Report, is confined to the maintenance of the stipulations laid down in the Convention and Peace Treaty of March 30th

1856, forbidding military or naval establishments in Åland. We also agree with the Commission in holding that these stipulations are still in force, and that the State which owns the Islands is bound to respect them. The Government of independent Finland loyally cooperated in the destruction of the fortifications and other military works erected by the Russian Government during the recent war, thereby showing that they respected the general European interest.

To sum up:—

(1) Åland geographically belongs to Finland, not to Sweden, and its population forms a part of the Swedish nationality in Finland;

(2) Before 1809 Åland belonged administratively, judicially and ecclesiastically to that part of the Swedish State which was called Finland;

(3) In 1809 Åland was ceded to Russia in the same manner and under the same conditions as the rest of Finland;

(4) In 1809 the Swedish constitution was confirmed as the constitution of Finland, and Finland thereby became a State, though not a sovereign State;

(5) The measures taken by the Russian State, in and after 1899, aiming at the annihilation of Finland's constitution, have neither *de jure* nor *de facto* reduced the status of the country to that of a Russian province;

(6) When Finland in December 1917 declared her independence, this act did not involve the creation of a new State, but only the removal of the previous limitation of sovereignty, while the constitution remained in other respects the same;

(7) The declaration of independence included Åland;

(8) As the independence of Finland was, as early as the beginning of January 1918, recognized without reservation by a number of powers, among them Sweden, that recognition involved the recognition of the sovereignty of Finland over its whole territory, the fron-

tiers of which had been clearly defined long before, and in which Åland also was included;

(9) Finland, therefore, was not one of the new States which grew up during the war, of which the position and frontiers were not yet defined;

(10) The disturbances which occurred in Finland after the declaration of independence were not of a nature to result in the death of the Finnish State and the creation of new State;

(11) Finland's sovereign rights over Åland cannot have been shaken by the separatist movement and by other events in Åland, nor by the Swedish attitude towards the aspirations of the Ålanders, especially as neither Sweden nor the Ålanders in any way denied the validity of Finland's rights before the time when, even in the opinion of the Jurist Commission, Finland was a definitely constituted sovereign State;

(12) Russia has no right to Åland;

(13) The sovereignty of Finland, therefore, extends to Åland;

(14) The stipulations of March 30th 1856 with regard to naval and military establishments on the islands are still in force;

(15) The conditions which the Commission holds to be requisite for the exercise of the right of self-determination are not present in the case of the Åland population;

(16) The circumstances which, according to the principles of law laid down by the Commission, justify an exception from the sovereign rights of a State over its own territory, are not present in the case of Finland and Åland.

We have in the above only discussed legal considerations, because they formed the main subject of the Jurist Commission's investigation, and they are also the most important. If it were thinkable that Finland should be deprived of Åland by an arbitrary decree, such a measure would be regarded in Finland as a grievous and undeserved

violation of justice, which it would be impossible to forget. Such violation of the rights of Finland would also entail disastrous consequences, the effects of which would be felt far beyond the borders of Finland.

A frontier drawn right through the archipelago which in the Åland waters, as in the Gulf of Finland and the Gulf of Bothnia, fringes the coast, would cause very great difficulties to Finland and would become a source of weakness. We will not dwell on the difficulties which would arise with regard to customs supervision. They would be so considerable that extensive smuggling from one side of the frontier to the other could not be prevented, even by great effort and at great expense. It is still more important that as the same power would own both sides of the Åland Sea, and also a considerable portion of what is now the southwestern archipelago of Finland, the position of this country in case of war, even if it took no part therein, would become exceedingly difficult. All communication between the southern and western coasts of the country could be prevented, as well as all import to and export from the ports in the Gulf of Bothnia. If, again, Finland itself were involved in war, such a state of affairs would injure her strategic position in the very highest degree. Finland has during centuries had the responsible task of forming an outpost not only for Scandinavia but for the whole of western civilization, and in the performance of this duty she has repeatedly been devastated by hostile forces. There is a danger that if Finland were to be deprived of so strategically important a district as Åland her defensive strength would thereby be considerably diminished. From this point of view and also because other powers cannot view with indifference the possession by one power of both sides of the Åland Sea, it is true that the future of Åland may be a matter of general interest, but that interest is not of a nature which would justify an infringement of Finland's sovereign rights over Åland.

Another very unhappy result of a solution depriving Finland

of Åland would be that such a violation of justice would create in the overwhelming majority of the population a bitterness against Sweden which would make any rapprochement between the two countries impossible for a long time to come. Not only a common history and culture, but also common interests, bid the peoples of Sweden and Finland to live together in peace and friendliness. A lasting unfriendliness between them would be a misfortune to both parties and also to the whole North. To avert such a contingency is an imperative necessity.

The League of Nations has the noble task of settling disputes among nations and promoting the cause of goodwill and peace. For this purpose, it is for the League to »make any recommendations which it deems just and proper in the case«. The settlement which the League recommends in a dispute should not, therefore, be of such a kind as to violate the claims of justice and reason, or to cause bitterness and hostility between two peoples which ought to live together in friendship and harmony.

The Report of the Jurist Commission, as already stated, contains no settlement of the actual question in dispute; it is only a preliminary step towards such a settlement, and is practically a report on the competence of the Council of the League to deal with the dispute in question. But as this Report, according to its title, is intended to state the juridical aspects of the question, there is a danger that the Council of the League may base its decision in the case on the incorrect statements made in the Report, and may recommend a solution which is not in accordance with justice and reason. That is why we have thought it our duty to point out in this document the inaccuracies in the Commission's presentation of the facts, and to give an account which is in consonance with the actual circumstances.

It is essential for a people so circumstanced as the Finnish people are to demonstrate that the cause they support is just. It is now rather

more than twenty years since a number of the most prominent representatives of European thought demanded that justice should be done to the people of Finland, and appealed to recognized principles of justice. Since that time the cry has been increasingly raised for the recognition] of the rights also of the smaller nations. We venture to express the hope that the League of Nations, formed for the purpose of maintaining peace and justice between the peoples, will not give its support to demands which, if carried out, would involve a violation of the rights of Finland, and would thus be in conflict with the lofty ideas for which the League was established.

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